Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In the Matter of:

Market Entry and Regulation of Foreign - Affiliated Entities	)	IB Docket No. 95-22

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REPLY COMMENTS OF
CABLE & WIRELESS, INC.

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REPLY COMMENTS

Cable & Wireless, Inc. ("CWI"), by its attorneys, respectfully submits its reply comments in the above-captioned proceeding. CWI urges the Commission to assure that any effective market access ("EMA") policy is consistent with the recommendations discussed herein.

I. INTRODUCTION AND SUMMARY

The record, with few exceptions, reflects at most guarded support for the proposed EMA policy. The leading proponent of the new policy is AT&T -- which, consistent with its best interests, advocates a rigid and expansive policy based on a checklist of conditions that prospective competitors must satisfy before entry. On the other hand, numerous U.S. and foreign companies, as well as governments representing some of this nation's major trading partners, cautioned that the instant proposal could be perceived as closing the U.S. market and would ultimately disadvantage American companies seeking to invest abroad. Several commenters, including CWI, emphasized the need to carefully coordinate any EMA policy with U.S. multilateral and bilateral trade initiatives, and to make significant changes to the proposal in order to assure that it accomplishes its laudable objectives.

The Commission must recognize that an EMA policy will not magically open previously closed markets or be more effective than existing safeguards at preventing discrimination. Moreover, rigid and overbroad application of the EMA policy would be counterproductive, set the stage for other nations to apply a similarly restrictive test to entry by U.S. entities, and further entrench the positions of incumbent providers of U.S. domestic and international services. Such a market-closing approach would deprive U.S. consumers of additional facilities-based competitive choices and undermine U.S. efforts to promote an advanced national and global information infrastructure.

CWI continues to believe that a properly structured EMA policy could yield net benefits. To this end, the Commission should adopt an EMA policy that comports with four key principles:

First, the policy should be limited to the geographic and product markets where its application makes sense. The record makes clear that invoking EMA to address "primary" markets would be inconsistent with the Commission's goals and U.S. trade initiatives, ineffective, cumbersome, and inimical to the interests of U.S. companies that have significant investments in non-competitive markets. Consequently, EMA must be limited to the home market of the carrier seeking entry. Similarly, EMA in the Section 214 context should apply only to requests for authority to provide facilities-based international services. The Commission's existing policies with respect to ISR and IMTS resale have been hugely successful at stimulating competition, preventing discrimination, and encouraging liberalization. Replacement of these policies with an EMA requirement would serve no useful purpose and create extreme uncertainty.

Second, the EMA policy must be applied flexibly, taking into account the totality of the circumstances. EMA must not mean rote application of a checklist of factors intended to require unthinking parallelism to the U.S. regulatory and market structure. Rather, as the record makes plain, EMA must accommodate variations among countries with different stages of technical and economic development. Without such flexibility, EMA will be perceived as heavy-handed, and will motivate other nations to apply similarly restrictive policies to prospective U.S. entrants.

Third, the EMA policy should be utilized only when a foreign carrier is seeking to make a controlling investment. In the absence of control, there is little likelihood that a foreign government will have any incentive to liberalize even if requested to do so by one of its nationals. Moreover, applying the EMA policy to non-controlling investments could choke off major sources of investment for smaller U.S. competitors, creating entry barriers which would protect existing facilities-based carriers. If the Commission feels compelled to supplement its existing rules against discrimination when foreign carriers have non-controlling investments, it should consider imposing the BT/MCI conditions on all U.S. service providers with significant investments by a foreign carrier.

Fourth, in the Section 310 context, the Commission should examine whether U.S. companies have an equivalent opportunity to invest in licensees providing similar categories of services in the home market of the company seeking authorization (such as broadband CMRS, if a foreign company seeks authority to invest in a U.S. cellular or broadband PCS licensee). A narrower, service-specific inquiry would be insufficiently flexible, and a broader inquiry would focus on factors that are largely irrelevant to the purposes of Section 310(b)(4). Because the equivalency analysis under Section 310 would be a market-opening measure, it should apply to any investment above the statutory benchmark, not just controlling investments as in the 214 context.

Finally, the Commission should eliminate unnecessary burdens in its current dominant carrier rules. Reducing the tariff notice period to 14 days, and discontinuing cost support obligations and the prior approval process for circuit additions would enhance responsiveness and promote competition. The Commission should not impose any new burdens, and in particular, should not mandate disclosure of accounting rates by foreign affiliates of U.S. carriers. The record evidences nearly universal agreement that such a requirement would not serve its intended purpose and would interfere with confidentiality expectations. Moreover, the Commission should defer refile-related issues to a separate, focused proceeding in order to develop a complete and reliable record.

II. THE COMMISSION SHOULD LIMIT ITS EMA ANALYSIS TO THE HOME MARKET OF THE AFFILIATED FOREIGN CARRIER.

In its opening comments, CWI explained in detail why the proposal to look at each "primary" market associated with an affiliated foreign carrier is imprudent and, most importantly, counterproductive.[1] The record reflects nearly universal agreement that the primary market proposal should be abandoned.

Several parties, for example, showed that a primary market approach would not promote liberalization. In this regard, the British Government noted that:

> the FCC seeks to influence not only the home market of a foreign carrier, but also the 'primary markets' (for which the definition is somewhat vague). It would be difficult enough for a private company to influence government trade policy in its home market, although arguably it may be possible for a government-owned operator. To expect a private company to influence the government of another country, whether or not the latter

[1] CWI at 5-9.

> has a 'significant ownership interest' in the telecommunications operator, is unrealistic.[2]

Motorola similarly explained that "governments in third countries simply will not have this incentive [to open their markets]," because "the service provider in the third country will itself be viewed as 'foreign,' and is likely to have little ability to pressure the government there to liberalize."[3] The Government of Mexico concurred, stating that "there is a growing trend for multiple privately-owned carriers to be headquartered in any given country," but that "[t]hese carriers may have little or no power to influence the telecommunications policy of the government of their primary market."[4]

The record also establishes that the primary market analysis would inhibit competition in the U.S. and harm consumers. As Motorola explained:

> the Commission will frequently face situations in which an entity seeking U.S. authorization has interests in numerous markets beyond its home country. Denying entry to such an entity despite the fact that the entity's home market is competitive, will delay additional competition in the U.S. market, to the detriment of consumers.[5]

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[2] British Government at 6 (¶ 15).

[3] Motorola at 4.

[4] Secretary of Communications and Transportation of Mexico at 13.

[5] Motorola at 4.

In addition, several commenters agreed that the primary market approach would injure U.S. companies seeking to invest abroad and undermine modernization efforts in third world countries. For example, TLD explained that, given investments by AT&T and the RBOCs in protected markets, application of a primary market analysis by other nations "could seriously harm U.S. companies investing in foreign carriers, and could retard the privatization and development of telecommunications systems around the world."[6] In addition, Motorola pointed out that:

> regulators in other countries are likely to consider foreign market access when addressing requests for entry by U.S. carriers. However, if those nations adopted a similarly broad interpretation of primary markets, they might well deny entry by U.S. entities even though the U.S. market is largely open. This risk arises because many American carriers have invested in telecommunications providers in protected foreign markets. In the end, this will undermine the incentive of U.S. companies to become facilities-based carriers abroad and frustrate Commission and Administration efforts to promote an advanced Global Information Infrastructure ("GII").[7]

These concerns, coupled with CWI's showing that a primary market approach would undermine U.S. bilateral trade initiatives and be inconsistent with statutory precedent,

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[6] TLD at 65.

[7] Motorola at 4. See also CTIA at 6 (urging the Commission to define primary market in a manner that does not result in foreign governments proposing a reciprocal definition that limits or bars entry into their markets by U.S. entities with diversified telecommunications holdings).

confirm that the Commission should limit any EMA inquiry to the home market.

Only AT&T gave unqualified support to the primary market proposal. Indeed, AT&T sought expansion of the primary market definition "to include those markets where the foreign carrier enjoys a 'protected status' and thus market power that can be leveraged."[8] AT&T's position is devoid of analytical support and, if adopted, would erect barriers to effective global competition. Such results would serve AT&T's private interests, but would not advance the public interest in fair competition.

III. THE EFFECTIVE MARKET ACCESS POLICY SHOULD BE INVOKED ONLY WHEN A FOREIGN AFFILIATE SEEKS CONTROL OF A U.S. INTERNATIONAL FACILITIES-BASED CARRIER, AND THE ANALYSIS SHOULD CONSIDER THE TOTALITY OF THE CIRCUMSTANCES.

A. Affiliation Should Be Defined As Control, Consistent with the Commission's Existing Dominant Carrier Policies.

The record reflects fundamental disagreement regarding the threshold interest that should trigger the EMA analysis. On the one hand, AT&T and MCI, the two largest incumbent international facilities-based carriers, advocate a ten

[8] AT&T at 21. Arguably, AT&T may have intended the protected status reference to limit the definition of primary market, so that a market would not be primary unless an entity had a substantial investment in a carrier in that market, there was significant traffic with the U.S., and the third country carrier had protected status. CWI anticipates, however, that AT&T meant the reference to expand the scope of primary markets to include markets where there is not a substantial investment or significant traffic, but the third party carrier has "protected status."

percent threshold, citing the potential for discrimination arising from larger investments.[9] Several other U.S. carriers and potential foreign entrants advocate a control standard, as is currently used to determine whether a carrier will be considered dominant on a particular foreign route.[10]

CWI urges the Commission to invoke the EMA analysis only when a foreign carrier seeks de facto or de jure control of the U.S. entity. Any threshold short of control will require the Commission to pass judgment on a multitude of proposed affiliations for no purpose. A primary goal of the EMA policy is to persuade foreign governments to liberalize. Such a result is highly unlikely, however, if the foreign carrier is obtaining less than a controlling interest. The government in the home country will have little incentive to disrupt the existing market structure simply so one of its nationals can make a minority investment in a U.S. carrier.

Moreover, potential entrants faced with the prospect of a time-consuming and uncertain EMA proceeding for a non-controlling investment may well elect to invest elsewhere. An affiliation standard short of control therefore would

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[9] AT&T at 25-26; MCI at 10-12. BT (at 8) and GTE (at 8) also propose a ten percent standard because of discrimination concerns from greater investments.

[10] See 47 C.F.R. §§ 63.10, 63.01(r)(1)(i) (1994); Sprint at 26-27; Deutsche Telekom at 51; *FONOROLA* at 18-19 (the NPRM contains no evidence of any threat to the public interest from less than a controlling foreign investment); NYNEX at 7.

deprive smaller U.S. carriers of valuable sources of capital. In turn, the lack of funding would impede facilities-based international competition in the U.S., harming consumers and further entrenching AT&T's dominant market position.

The Commission also should recognize that, as with the primary market vs. home market issue, its policies likely will be applied to prospective U.S. entrants by foreign administrations. If control is the standard here, control is the standard that U.S. entities will face abroad. If, on the other hand, affiliation is set at ten percent, twenty-five percent, or any other level short of control, U.S. carriers will face additional difficulties in being allowed to compete overseas.

CWI does not belittle the discrimination concerns expressed by AT&T and a few others. Nonetheless, the Commission already has adopted rules and policies to identify and deter discrimination.[11] In addition, as Sprint points out, discrimination concerns can be fully addressed by automatically extending the conditions imposed in the BT/MCI 214 Order to other foreign carriers with less than controlling interests in U.S. international facilities-based service providers.[12] This approach is as effective as the EMA policy in precluding discrimination, but is far

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[11] See 47 C.F.R. §§ 63.15 (governing circuit additions), 43.61 and 43.81 (traffic reports).

[12] Sprint at 27-34.

preferable because it avoids delaying additional competition in the U.S. in the empty hope that a foreign country will open its market when one of its nationals is not seeking control of a U.S. service provider.

B. The EMA Analysis Should Not Be Employed When a Foreign Carrier Seeks Resale Authority.

AT&T urges the Commission to apply the EMA policy not just when a foreign carrier seeks to affiliate with a U.S. provider of facilities-based international services, but to extend that policy to requests for ISR and even IMTS resale authority.[13] CWI strongly opposes this blatantly anticompetitive request.

The equivalency policy for ISR applications has been tremendously successful. It has been applied flexibly to encourage competition while preventing discrimination and promoting the Commission's settlement policies. At the same time, the equivalency policy accommodates differences in market structure and regulatory policies in nations that are at least as committed to open entry as the U.S., by avoiding the formulaic checklist approach advocated by AT&T. This beneficial policy should not be abandoned in favor of an uncertain, possibly more rigid analysis that, as even AT&T

[13] AT&T at 22-24; see also MCI at 20 (EMA test should replace equivalency analysis for ISR authority).

recognizes, focuses on factors that are most relevant in the facilities-based context.[14]

There is even less justification for applying EMA to IMTS resale, as the Commission explained in treating all IMTS resellers as presumptively non-dominant regardless of foreign affiliation:

> We agree with the assessment of many commenters that the resale of an unaffiliated U.S. facilities-based carrier's switched services presents no substantial possibility of anticompetitive effects. . . . All affiliated switched service resellers will in any event be required to certify that they will not agree to accept any special concessions from a foreign carrier or administration. This requirement, in conjunction with our Section 43.51 filing requirements, should provide sufficient protection against the de minimis risk of discriminatory conduct by a switched service reseller or its foreign affiliate.[15]

The record provides no basis for concluding that this analysis has proved erroneous, and in any event, there is no prospect that an EMA policy for resale would convince a foreign government to open a previously closed market; the rewards to the company seeking authority are too tenuous.

For these reasons, CWI agrees with a multitude of parties that forced "harmonization" of the equivalency policy for ISR and the open entry policy for IMTS resale with the proposed EMA policy for facilities-based entry is unwarranted

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[14] AT&T at 25.

[15] Regulation of International Common Carrier Services, 7 FCC Rcd 7331, 7335 (1992).

and counterproductive.[16] If the Commission nonetheless decides to adopt the more restrictive EMA approach for ISR and IMTS resale, it must grandfather existing authorizations, as well as its finding that ISR should be permitted between the U.S. and the U.K and Canada.[17] Failure to do so would unjustifiably penalize carriers that legitimately relied on the Commission's rules, seriously restrain competition, injure consumers, and inevitably spur retaliation by other nations against U.S. entities.

C. The EMA Analysis Should Not Be Applied as a Rote Checklist, but Rather Should Look at Broad Equivalency

In its opening comments, CWI endorsed the Commission's stated intent to apply the effective market access analysis as a flexible and properly focused element of its public interest determination:

> Flexibility is essential because market conditions change, and each determination must be based on a balance of all relevant circumstances. At the same time, an inquiry that sweeps too broadly would be unduly cumbersome, and one that is too narrow would be meaningless.

Ignoring this point -- and the Commission's express rejection of mirror reciprocity -- AT&T contends that the six factors

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[16] See, e.g., Americatel at 6 (there is no competitive harm in permitting unlimited foreign carrier entry for switched resale, even to affiliated countries); Citicorp at 3-4 (in the absence of new evidence, the Commission should not increase its current requirements with respect to ISR); Sprint at 39-40.

[17] See AmericaTel at 7.

proposed in the NPRM "are the minimum criteria necessary to facilitate effective market access,"[18] and seeks to expand those factors to include a regulatory equal access mandate (rather than negotiated interconnection), 800 number portability, and administration of the numbering plan by an independent third party.[19]

If the EMA policy is to accomplish anything other than establishing competitive barriers, it must accommodate differences in the economic structures, technical capabilities, and regulatory frameworks of other nations. Requiring each factor to be checked off in order to permit entry would guarantee that no foreign-affiliated carrier will be allowed to compete in providing U.S. international facilities-based services for the foreseeable future. Regardless, AT&T would go so far as to require compliance with factors (such as an independent numbering plan administrator and full protection of CPNI) that the regulatory regime in this country does not even satisfy. This is plainly unreasonable and transparently self-serving.

As GTE explained, "the Commission must recognize that other sovereign countries have legitimate internal policies

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18 AT&T at 29.

19 Id. at 30-32.

and must be permitted to develop their own communications policies."[20] Moreover,

> a comparable market access standard which requires essentially identical competitive opportunities as in the U.S., such as that advocated by AT&T, is too restrictive and would virtually eliminate market entry by foreign carriers. The competitive markets developed in the United States within the last few years can only be matched by a small number of other countries. A standard that considers other factors allows for these differences and encourages other countries to adopt more open market policies.[21]

Accordingly, the Commission should apply the EMA policy flexibly, and consider the totality of the circumstances rather than mandating adherence to an impossibly rigorous standard of exact parallelism.

IV. THE COMMISSION SHOULD NOT REQUIRE COST-BASED ACCOUNTING RATES AS A CONDITION OF ENTRY, SHOULD NOT MANDATE DISCLOSURE OF ACCOUNTING RATES, AND SHOULD DEFER REFILE ISSUES TO A SEPARATE PROCEEDING.

A. Cost-Based Accounting Rates Are a Result of Competition, Not a Pre-Condition To It.

AT&T renews its call for cost-based accounting rates as a "critical part" of the public interest analysis before allowing entry by foreign-affiliated carriers.[22] As CWI explained in its opening comments, however, AT&T's approach puts the cart before the horse. Competition in foreign countries will produce cost-based accounting rates in due

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20 GTE at 3.

21 Id. at 3-4.

22 AT&T at 34-35.

course; such rates cannot rationally be expected to precede competition and carriers from newly liberalizing markets accordingly should not be denied entry in the U.S. because of non-cost based accounting rates.[23]

The record amply supports CWI's position. In this regard, GTE explained that:

> effective market access will result in the lowering of accounting rates. As an example, the emergence of new carrier alternatives to existing carriers in foreign countries is a primary force in driving accounting rates. These new carriers often offer U.S. carriers lower accounting rates than the established administration. New entrants provide the incentive to the U.S. carrier to establish a new correspondent agreement .... This action creates pressure on the established administration to lower its accounting rates or lose traffic to competitors.[24]

Similarly, BTNA noted that AT&T's effort to require cost-based accounting rates as a prerequisite to entry "confuses means with ends," because "[c]ompetition through effective market access should drive accounting rates to cost without involving the Commission in passing upon the costs of carriers that are subject to foreign jurisdictions."[25] Accordingly, the Commission should not make cost-based accounting rates a pre-condition to entry or "critical factor" in the consideration of Section 214 applications.

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[23] CWI at 12.

[24] GTE at 4-5.

[25] BTNA at 5; see also Americatel at 8.

B. The Commission Should Not Mandate Disclosure of Accounting Rates by Affiliated Foreign Carriers.

CWI's comments explained that mandating disclosure of accounting rates would implicate issues of international comity and confidentiality, and could prove counterproductive by motivating third party carriers and governments (those not seeking U.S. entry) to retaliate by declining to negotiate lower rates with U.S. carriers.[26] The record provides additional persuasive support for declining to adopt the disclosure requirement.

The British Government, for example, noted that the disclosure obligation could require a company outside U.S. jurisdiction to reveal commercially confidential information affecting a third party outside U.S. jurisdiction.[27] Its comments also cautioned that the proposed requirement is "tangential to the main purpose of the Notice, and raises questions about the basis on which judgments would be made about whether those rates were cost-based or not." France Telecom raised similar concerns:

> the Commission has no jurisdiction over the non-affiliated non-U.S. carrier. Accordingly, it will be quite difficult for the Commission to determine whether any disparities ... are justified (or not) on the basis of cost, or for some other reason.
>
> Moreover, accounting rates are negotiated on a commercial basis between carriers. Where a non-U.S. carrier has a bilateral relationship with another non-

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26 CWI at 13.

27 British Government at 5 (¶ 12).

> U.S. carrier ... the carrier that has no contact with the investment may well be reluctant to have its accounting rates ... disclosed to the public. The broad, extraterritorial sweep of the Commission's proposed filing requirement is likely to cause some resentment on the part of the affiliated carrier's own correspondents and their governments.[28]

Finally, the overreaching nature of the proposed requirement is inconsistent with the Commission's acknowledgement that its "jurisdiction flows to the U.S. carrier, not to its foreign affiliate.[29]

Only AT&T supported the disclosure proposal.[30] However, its brief discussion -- consisting of a one-sentence assertion that disclosure would make it more difficult for foreign carriers to maintain discriminatory rates -- rests on an insupportable assumption that any variances in accounting rates reflect discrimination rather than justifications based on cost differences or other legitimate considerations. Moreover, AT&T's argument fails to address the serious confidentiality and comity concerns expressed by CWI and

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[28] France Telecom at 25-26; see also Americatel at 9-11 (proposed requirement is unrealistic, could prevent entry by foreign-affiliated carriers, is unduly intrusive, and may violate expectations of confidentiality).

[29] International Services, 7 FCC Rcd at 7344 n. 66.

[30] AT&T at 48.

others.[31] Accordingly, the record compels abandonment of the proposal to dictate disclosure of accounting rates.

C. Refile Issues Should Be Dealt With in a Separate, Focused Proceeding.

AT&T and MCI urge the Commission to prohibit refile without the consent of carriers in the originating and terminating countries, asserting that such a rule would be consistent with ITU requirements.[32] As a preliminary matter, CWI notes that the validity of this contention is far from clear. Moreover, even if AT&T and MCI were correct, the European Court of Justice has held that Articles 86 and 90 of the EEC Treaty (which seek to promote competition) supersede ITU regulations that purportedly limited telex refile.[33] Accordingly, there is precedent for finding that pro-competitive policies should preempt refile limitations. Regardless of the legal dispute, however, CWI urges the Commission not to act precipitately in this proceeding, but rather to address the complex issues associated with refile in a separate, focused docket.

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[31] As CWI noted in its opening comments, the Commission has recognized that there are sound reasons for keeping transiting rates confidential. CWI at 13 n. 24, _citing_ Public Notice, File No. CCB-IAD 95-101 (Feb. 21, 1995).

[32] AT&T at 52; MCI at 24.

[33] _See_ British Telecommunications, OJL 360, 21.12.82, p. 36, [1983] 1 CMLR 457, [1983] FSR 359, _aff'd_, Italian Republic v. Comm'n of the European Communities, [1985] ECR 510, [1985] 2 CMLR 368, [1985] FSR 510.

As CWI explained in its reply comments in Docket ISP-95-004 (MCI's petition regarding Sprint's reorigination practices), refile supports a multitude of publicly beneficial services, including the country and beyond offerings provided by AT&T, MCI, Sprint, and many other IXCs. In addition, refile enables arbitrage opportunities that create powerful incentives to lower above-cost accounting rates. Accordingly, the hasty adoption of ill-informed rules restricting refile could undermine broader U.S. policy goals to lower collection rates and promote more efficient services.

The most prudent course is to initiate a proceeding that specifically focuses on refile. In the course of that proceeding, the Commission can obtain information about how international carriers use refile, fully explore the legal and policy concerns raised by AT&T and MCI, and address the effects of refile on settlements, accounting and collection rates.

V. THE COMMISSION SHOULD STREAMLINE TARIFF REGULATION OF DOMINANT INTERNATIONAL CARRIERS AND DISCONTINUE PRIOR APPROVAL OF CIRCUIT ADDITIONS.

In its opening comments, CWI urged the Commission to eliminate unnecessary barriers to competition by reducing the notice period for dominant carriers' international tariffs to 14 days and discontinuing cost support requirements and prior approval of circuit additions. CWI explained that these requirements impede responsiveness, artificially inflate overhead costs, and provide advance signals to competitors about rate changes and facility planning. They are unnecessary to assure reasonable rates and non-discriminatory practices because of the intensity of competition and the presence of semi-annual circuit reports and the "no special concessions" obligation.[34]

With respect to tariff requirements, the British Government supported reducing the notice period and noted that there is no general and automatic tariff filing requirement in the U.K.[35] Only MCI opposes reducing the notice period, expressing the vague concern that doing so would "not provide the Commission adequate information or time to address any ratemaking concerns ...."[36] MCI's position should be rejected. A 14-day notice period and elimination of cost support requirements has long been the policy for many dominant carrier filings in the domestic marketplace and by non-dominant carriers internationally. That policy has created significant consumer benefits while producing no inordinate risks of anticompetitive pricing, and

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[34] CWI at 11.

[35] British Government at 3. CWI recognizes, of course, that the Commission is constrained to require tariffs by Section 203 of the Communications Act. Nonetheless, it has discretion to establish any notice requirements supported by the public interest.

[36] MCI at 22.

it will have the same effect if applied to dominant international carriers.[37] Should MCI believe rates are unreasonably low, it is well-equipped to try to make its case through the complaint process. Consumers should not be denied the benefit of quicker access to lower rates based on speculative concerns about unfair pricing.

MCI similarly is the only opponent of eliminating the rule requiring prior Commission approval for additions and deletions of circuits, again arguing that the rule is needed to prevent anticompetitive conduct.[38] In reality, however, the only effect of the prior approval requirement is to allow incumbent providers to delay competitive entry by filing unjustified petitions to deny. Removal of the rule would prevent such gaming of the regulatory process while creating no undue risks to competition, given the no special concessions obligation and the existence of semi-annual reporting requirements.

Indeed, the record contains several requests for further streamlining of the Section 214 process. AmericaTel asks the Commission to allow entities with ISR authorizations automatically to add countries subsequently found to be

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[37] There is no risk of unreasonably high rates, given the competitive nature of the marketplace.

[38] MCI at 22-23.